

Senate Engrossed House Bill

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

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CHAPTER 267

HOUSE BILL 2317

AN ACT

AMENDING SECTIONS 11-830 AND 27-301, ARIZONA REVISED STATUTES; RELATING TO
MINES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 11-830, Arizona Revised Statutes, is amended to
3 read:

4 11-830. Restriction on regulation; exceptions; aggregate mining
5 regulation; definitions

6 A. Nothing contained in any ordinance authorized by this chapter
7 shall:

8 1. Affect existing uses of property or the right to its continued use
9 or the reasonable repair or alteration thereof for the purpose for which used
10 at the time the ordinance affecting the property takes effect.

11 2. Prevent, restrict or otherwise regulate the use or occupation of
12 land or improvements for railroad, mining, metallurgical, grazing or general
13 agricultural purposes OR FOR MINED LAND RECLAMATION ACTIVITIES, if the tract
14 concerned is five or more contiguous commercial acres. For the purposes of
15 this paragraph, "MINED LAND RECLAMATION ACTIVITIES" INCLUDES ACTIVITIES THAT
16 ARE REGULATED PURSUANT TO TITLE 27, CHAPTERS 5 AND 6. ~~"mining" has the same~~
17 ~~meaning prescribed in section 27-301.~~

18 3. Prevent, restrict or otherwise regulate the use or occupation of
19 land or improvements for agricultural composting, if the tract is five or
20 more contiguous commercial acres. An agricultural composting operation shall
21 notify in writing the board of supervisors and the nearest fire department of
22 the location of the composting operation. If the nearest fire department is
23 located in a city, town or fire district where the agricultural composting is
24 not located, the agricultural composting operation shall also notify in
25 writing the fire district in which the operation is located. Agricultural
26 composting is subject to ~~the provisions of~~ sections 3-112 and 49-141. For
27 the purposes of this paragraph "agricultural composting" has the same meaning
28 prescribed in section 9-462.01, subsection G.

29 B. A nonconforming business use within a district may expand if such
30 expansion does not exceed one hundred per cent of the area of the original
31 business.

32 C. For the purposes of subsection A, paragraph 2 of this section,
33 mining does not include aggregate mining operations in an aggregate mining
34 operations zoning district established pursuant to this section. The board
35 of supervisors of any county with a population of more than two million
36 persons shall designate and establish the boundaries of an aggregate mining
37 operations zoning district on the petition of at least one hundred persons
38 who reside within one-half mile of an existing aggregate mining operation.
39 In addition, the board of supervisors of any county may establish, in its
40 discretion and on the board's initiative, one or more aggregate mining
41 operations zoning districts. Aggregate mining operations zoning districts
42 may only be located in areas that are inventoried and mapped as areas of
43 known reserves or in areas with existing aggregate mining operations.
44 Subject to subsections E and F of this section, a county and the state mine
45 inspector may jointly adopt, as internal administrative regulations,

1 reasonable aggregate mining operations zoning district standards limited to
2 permitted uses, procedures for approval of property development plans and
3 site development standards for dust control, height regulations, setbacks,
4 days and hours of operation, off-street parking, screening, noise, vibration
5 and air pollution control, signs, roadway access lanes, arterial highway
6 protection and property reclamation for which aggregate mining operations are
7 not otherwise subject to federal, state or local regulation or a governmental
8 contractual obligation. Regulations jointly adopted pursuant to this
9 subsection by the county and the state mine inspector shall not prohibit the
10 activities included in the definition of mine pursuant to section 27-301,
11 paragraph 8 or duplicate, conflict with or be more stringent than applicable
12 federal, state or local laws.

13 D. The board of supervisors of any county that establishes an
14 aggregate mining operations zoning district shall appoint an aggregate mining
15 operations recommendation committee for the district. The committee shall
16 consist of not more than seven operators, or representatives of operators, of
17 active aggregate mining operations in any district within the county and an
18 equal number of property owners, who are not operators, who are not employed
19 by operators and who do not represent operators, residing within one mile of
20 the boundaries of aggregate mining operations or a proposed aggregate mining
21 operation in the district for which the committee is established. An
22 aggregate mining operator may serve on more than one committee in the same
23 county. The board of supervisors shall determine the length of terms of
24 members of the committee and shall stagger the initial appointments so that
25 not all members' terms expire at the same time. Members of the committee who
26 no longer qualify for membership as provided by this subsection are subject
27 to removal and replacement by the board of supervisors. The committee shall
28 elect a member who is an aggregate mining operator to serve as chairman for
29 the first year in which the committee is created. For each year thereafter,
30 the chairman shall be elected by the members of the committee with a member
31 who is a property owner and a member who is an aggregate mining operator
32 serving as chairman in alternate years. The committee is subject to the open
33 meeting requirements of title 38, chapter 3, article 3.1.

34 E. Within ninety days after an aggregate mining operations
35 recommendation committee is established, it shall notify all existing
36 aggregate mining operators in the district of the application of this section
37 and title 27, chapter 3, article 6 to the aggregate mining operation. In
38 addition, the committee shall:

39 1. By a majority vote of all members make recommendations to the board
40 of supervisors for aggregate mining zoning districts and administrative
41 regulations as provided in this section. The board of supervisors may adopt
42 or reject such recommendations but may not make any modifications to the
43 recommendations unless such modification is approved by a majority of the
44 members of the recommendation committee.

1 2. Serve as a forum for mediation of disputes between members of the
2 public and aggregate mining owners or operators. If the committee is unable
3 to resolve a dispute, the committee shall transmit the matter to the state
4 mine inspector, with written findings and recommendations, for further
5 action.

6 3. Hear written complaints filed with the state mine inspector
7 regarding alleged material deviations from approved community notices for
8 aggregate mining operations and make written recommendations to the state
9 mine inspector pursuant to section 27-446.

10 F. Any administrative regulations adopted by a board of supervisors
11 pursuant to this section shall not be effective until they are approved by
12 the state mine inspector. The inspector may disapprove the administrative
13 regulations adopted by the board of supervisors only if they duplicate,
14 conflict with or are more stringent than applicable federal, state or local
15 laws, rules or regulations. If the inspector disapproves the administrative
16 regulations, the inspector must provide written reasons for the disapproval.
17 The inspector shall not make any modification to the administrative
18 regulations as adopted by the board of supervisors unless the modification is
19 approved by a majority of the members of the board of supervisors.

20 G. A person or entity is subject to ~~the provisions of~~ this chapter if
21 the use or occupation of land or improvements by the person or entity
22 consists of or includes changing, remanufacturing or treating human sewage or
23 sludge for distribution or resale. These activities are not exempt from this
24 chapter under subsection A, paragraph 2 of this section.

25 H. A county shall not require as a condition for a permit or for any
26 approval, or otherwise cause, an owner or possessor of property to waive the
27 right to continue an existing nonconforming outdoor advertising use or
28 structure without acquiring the use or structure by purchase or condemnation
29 and paying just compensation unless the county, at its option, allows the use
30 or structure to be relocated to a comparable site in the county with the same
31 or a similar zoning classification, or to another site in the county
32 acceptable to both the county and the owner of the use or structure, and the
33 use or structure is relocated to the other site. The county shall pay for
34 relocating the outdoor advertising use or structure including the cost of
35 removing and constructing the new use or structure that is at least the same
36 size and height. This subsection does not apply to county rezoning of
37 property at the request of the property owner to a more intensive zoning
38 district.

39 I. For THE purposes of this section:

40 1. "Aggregate" has the same meaning prescribed in section 27-441.

41 2. "Aggregate mining" has the same meaning prescribed in section
42 27-441.

43 3. "Aggregate mining operation" means property that is owned, operated
44 or managed by the same person for aggregate mining.

1 4. "Operators" means persons who are actively engaged in aggregate
2 mining operations within the zoning district or proposed zoning district and
3 who have given notice to the state mine inspector pursuant to section 27-303.

4 Sec. 2. Section 27-301, Arizona Revised Statutes, is amended to read:
5 27-301. Definitions

6 In this chapter, unless the context otherwise requires:

7 1. "Abandoned mine" means a mine where mining operations have been
8 permanently terminated or the operator has complied with section 27-303,
9 subsection C or for which no owner, operator or other claimant of record can
10 be located for a deserted mine site.

11 2. "Active mine" means a mining operation conducting mining activities
12 on any lands.

13 3. "Claim" means the portion of mining ground held under federal and
14 local law by one claimant or association, by virtue of one location and
15 record. It includes mining claims and sites deemed abandoned under the
16 federal land policy and management act of 1976 (P.L. 94-579; 90 Stat. 2743).

17 4. "Excavations" or "workings" means any or all parts of a mine
18 excavated or being excavated, including shafts, tunnels, drifts, crosscuts,
19 adits, entries, winzes, raises, stopes, open cuts, and all working places,
20 whether abandoned or in use.

21 5. "Inactive mine" means a mining operation not conducting mining for
22 more than six months or where mining operations have been temporarily
23 suspended or the operator has complied with section 27-303, subsection C.

24 6. "Inspector" means the state mine inspector and except in article 7
25 of this chapter his deputies.

26 7. "Mill" means any ore mill, concentrator, sampling works, crushing,
27 grinding or screening plant, appurtenant buildings, shops or storage or
28 loading facility used at and in connection with any mine.

29 8. "Mine" means all lands containing excavations, underground
30 passageways, shafts, tunnels and workings, structures, facilities, equipment,
31 machines or other property including impoundments, retention dams, tailings
32 and waste dumps, on the surface or underground, used in, to be used in or
33 resulting from the work of extracting minerals or other materials, excluding
34 hydrocarbons. Mine includes that portion of an operation which mixes rock,
35 sand, gravel or similar materials with water and cement or with asphalt,
36 provided that the operation is either physically connected to the mine or is
37 so interdependent with the mine as to form one integral enterprise. MINE
38 INCLUDES THAT PORTION OF AN OPERATION THAT IS BEING RECLAIMED PURSUANT TO
39 CHAPTER 5 OR 6 OF THIS TITLE.

40 9. "Miner" means a person who works in a mine.

41 10. "Mining" means those activities conducted to develop or extract
42 materials from a mine including on-site transportation, concentrating,
43 milling, leaching, smelting or other processing of ores or other materials.
44 MINING INCLUDES MINED LAND RECLAMATION ACTIVITIES REGULATED PURSUANT TO
45 CHAPTER 5 OR 6 OF THIS TITLE.

1 11. "Open pit" means any mine operated on the surface of the earth,
2 including quarries, but excluding sand and gravel operations.

3 12. "Operation" means a mine, mill, smelter, sand and gravel plant or
4 pyrometallurgical or hydrometallurgical operation.

5 13. "Operator" means a natural person, corporation, partnership
6 association, agent, governmental entity or other public or private
7 organization or representative owning, controlling or managing a mine.

8 14. "Sand and gravel operation" means any operation the principal
9 product of which is sand, gravel, pumice or any other common variety of
10 material.

11 15. "Smelter" means any establishment used for the purpose of
12 pyrometallurgical operations and appurtenant buildings, shops, facilities for
13 the production of steam or electrical power, or equipment used in conjunction
14 with any of the above.

15 16. "Surface mining" means mining conducted on the surface of the land
16 including open pit, strip, dredging, quarrying, leaching, surface evaporation
17 operations, reworking abandoned tailings and dumps and related activities.

18 17. "Underground mine" means a mine in which minerals or other material
19 is extracted from beneath the surface by means of shafts, tunnels or other
20 openings.

APPROVED BY THE GOVERNOR MAY 9, 2006.

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